

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
500 PEARL STREET
NEW YORK, NY 10007-1312

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

212-805-0194

December 16, 2010

BY FACSIMILE

Frederick M. Oberlander, Esq.
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28 Sycamore Lane, Box 1870
Montauk, NY 11954
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Re: Kriss, et al. v. Bayrock Group, LLC, et al.
10 Civ. 3959 (NRB)

Dear Mr. Oberlander:

This is in response to your letter of December 15, 2010 which was sent without benefit of my conversation with Judge Glasser who informed me that there was no reason I could not proceed with this case. Hence my letter of November 4, 2010. Frankly, I would have thought that if there was any uncertainty on your part about my authority to send the letter of November 4, you would have inquired.

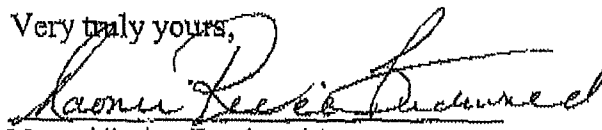
I am, however, pleased to learn that you are now prepared to file a new complaint omitting certain documents. To avoid any further issues I would suggest that, before filing the new complaint, you submit your proposed complaint to me with specific citation to publicly available sources for any allegation (by paragraph) which makes reference to information or documents which are generally treated as sealed or privileged.¹

I have no objection to your having additional time to submit your proposed complaint. However, as I have previously indicated only a proper complaint can be the predicate of subsequent motions, which I reiterate must be made on rule compliant formal papers.

As for your comments about letters not being filed on the docket, this is standard practice in this District. Indeed, there is no proper way for a party to file a letter on ECF. Only letters endorsed by the Court as orders may be filed on ECF and that filing is done by chambers.

Finally, it should be clear that neither I nor Judge Glasser have ever had any desire to impede the progress of this case so long as court orders designed to protect well established and legitimate interests were complied with.

Very truly yours,


Naomi Reice Buchwald
United States District Judge

¹Further, I wish to bring to your attention an article that recently appeared in United States Law Week, titled *Model Rule 1.15: The Elegant Solution to the Problem of Purloined Documents* (Vol. 79, No. 18, at 1618).